

U. S. Laws, statutes, etc

UNITED STATES STATUTES

CONCERNING THE

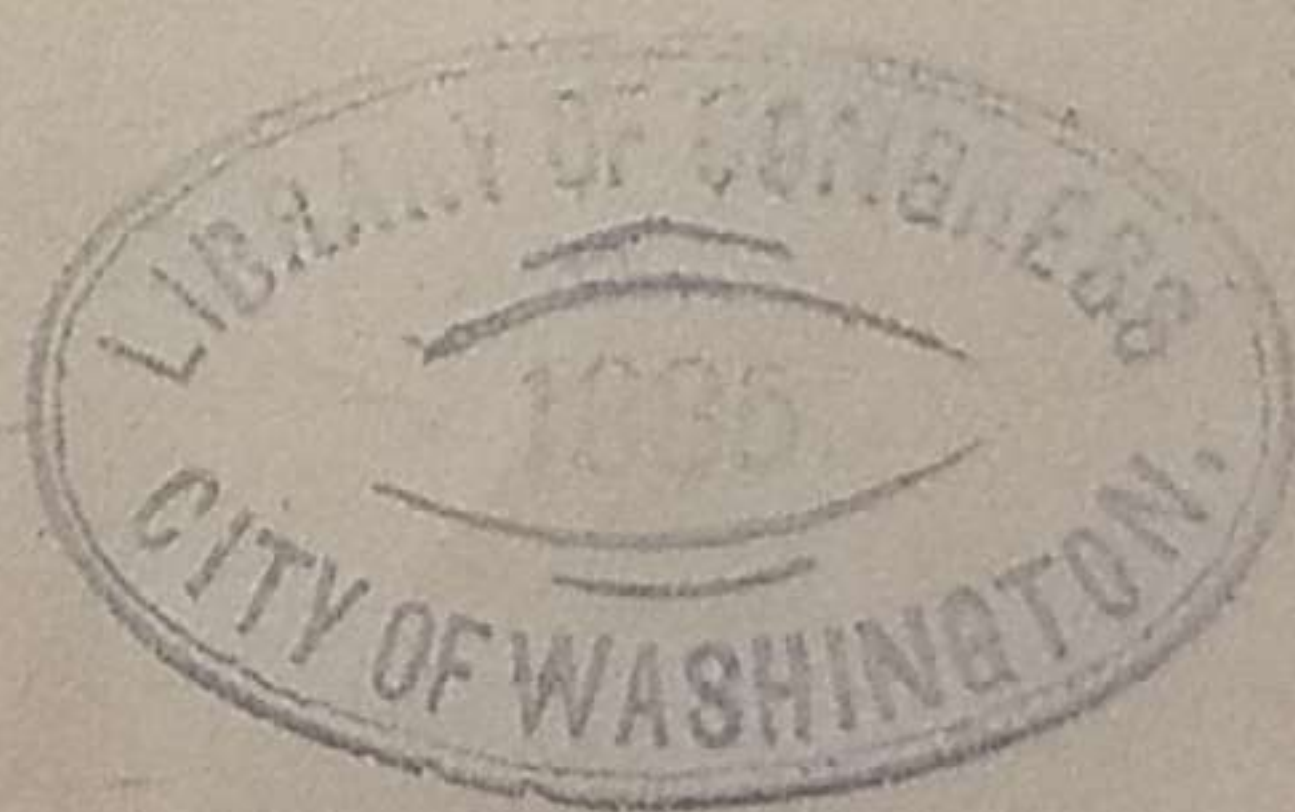
PROTECTION AND REGISTRATION OF TRADE-MARKS AND LABELS,

WITH THE

RULES OF THE PATENT OFFICE RELATING THERETO.

EDITION OF JANUARY 1, 1885.

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TRADE-MARKS.

AN ACT TO AUTHORIZE THE REGISTRATION OF TRADE-MARKS AND PROTECT THE SAME.

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That owners of trade-marks used in commerce with foreign nations or with the Indian tribes, provided such owners shall be domiciled in the United States or located in any foreign country or tribes, which, by treaty, convention, or law, affords similar privileges to citizens of the United States, may obtain registration of such trade-marks by complying with the following requirements:

First. By causing to be recorded in the Patent Office a statement specifying name, domicile, location, and citizenship of the party applying; the class of merchandise, and the particular description of goods comprised in such class to which the particular trade-mark has been appropriated; a description of the trade-mark itself, with fac-similes thereof, and a statement of the mode in which the same is applied and affixed to goods, and the length of time during which the trade-mark has been used.

Second. By paying into the Treasury of the United States the sum of twenty-five dollars, and complying with such regulations as may be prescribed by the Commissioner of Patents.

SEC. 2. That the application prescribed in the foregoing section must, in order to create any right whatever in favor of the party filing it, be accompanied by a written declaration verified by the person, or by a member of a firm, or by an officer of a corporation applying, to the effect that such party has at the time a right to the use of the trade-mark sought to be registered, and that no other person, firm, or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that such trade-mark is used in commerce with foreign nations or Indian tribes, as above indicated; and that the description and fac-similes presented for registry truly represent the trade-mark sought to be registered.

SEC. 3. That the time of the receipt of any such application shall be noted and recorded. But no alleged trade-mark shall be registered

unless the same appear to be lawfully used as such by the applicant in foreign commerce or commerce with Indian tribes, as above mentioned, or is within the provision of a treaty, convention, or declaration with a foreign power; nor which is merely the name of the applicant; nor which is identical with a registered or known trade-mark owned by another, and appropriate to the same class of merchandise, or which so nearly resembles some other person's lawful trade-mark as to be likely to cause confusion or mistake in the mind of the public, or to deceive purchasers. In an application for registration the Commissioner of Patents shall decide the presumptive lawfulness of claim to the alleged trade-mark; and in any dispute between an applicant and a previous registrant, or between applicants, he shall follow, so far as the same may be applicable, the practice of courts of equity of the United States in analogous cases.

SEC. 4. That certificates of registry of trade-marks shall be issued in the name of the United States of America, under the seal of the Department of the Interior, and shall be signed by the Commissioner of Patents, and a record thereof, together with printed copies of the specifications, shall be kept in books for that purpose. Copies of trade-marks and of statements and declarations filed therewith, and certificates of registry so signed and sealed shall be evidence in any suit in which such trade-marks shall be brought in controversy.

SEC. 5. That a certificate of registry shall remain in force for thirty years from this date, except in cases where the trade-mark is claimed for and applied to articles not manufactured in this country, and in which it receives protection under the laws of a foreign country for a shorter period, in which case it shall cease to have any force in this country by virtue of this act at the time that such trade-mark ceases to be exclusive property elsewhere. At any time during the six months prior to the expiration of the term of thirty years such registration may be renewed on the same terms and for a like period.

SEC. 6. That applicants for registration under this act shall be credited for any fee or part of a fee heretofore paid into the Treasury of the United States with intent to procure protection for the same trade-mark.

SEC. 7. That registration of a trade-mark shall be *prima facie* evidence of ownership. Any person who shall reproduce, counterfeit, copy, or colorably imitate any trade-mark registered under this act and affix the same to merchandise of substantially the same descriptive properties as those described in the registration shall be liable to an action on the case for damages for the wrongful use of said trade-mark at the suit of the owner thereof; and the party aggrieved shall also have his remedy according to the course of equity to enjoin the wrongful use of such trade-mark used in foreign commerce or commerce with Indian tribes, as aforesaid, and to recover compensation therefor in any court having

jurisdiction over the person guilty of such wrongful act; and courts of the United States shall have original and appellate jurisdiction in such cases without regard to the amount in controversy.

SEC. 8. That no action or suit shall be maintained under the provisions of this act in any case when the trade-mark is used in any unlawful business or upon any article injurious in itself, or which mark has been used with the design of deceiving the public in the purchase of merchandise, or under any certificate of registry fraudulently obtained.

SEC. 9. That any person who shall procure the registry of a trade-mark, or of himself as the owner of a trade-mark, or an entry respecting a trade-mark, in the office of the Commissioner of Patents, by a false or fraudulent representation or declaration, orally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in consequence thereof to the injured party, to be recovered in an action on the case.

SEC. 10. That nothing in this act shall prevent, lessen, impeach, or avoid any remedy at law or in equity which any party aggrieved by any wrongful use of any trade-mark might have had if the provisions of this act had not been passed.

SEC. 11. That nothing in this act shall be construed as unfavorably affecting a claim to a trade mark after the term of registration shall have expired; nor to give cognizance to any court of the United States in an action or suit between citizens of the same State, unless the trade-mark in controversy is used on goods intended to be transported to a foreign country, or in lawful commercial intercourse with an Indian tribe.

SEC. 12. That the Commissioner of Patents is authorized to make rules and regulations and prescribe forms for the transfer of the right to use trade-marks and for recording such transfers in his office.

SEC. 13. That citizens and residents of this country wishing the protection of trade-marks in any foreign country the laws of which require registration here as a condition precedent to getting such protection there may register their trade-marks for that purpose as is above allowed to foreigners, and have certificate thereof from the Patent Office.

Approved March 3, 1881.

AN ACT RELATING TO THE REGISTRATION OF TRADE-MARKS.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That nothing contained in the law entitled "An act to authorize the registration of trade-marks and protect the same," approved March third, eighteen hundred and eighty-one, shall prevent the registry of any lawful trade-mark rightfully used by the applicant in foreign commerce or commerce with Indian tribes at the time of the passage of said act.

Approved August 5, 1882.

AN ACT TO PUNISH THE COUNTERFEITING OF TRADE-MARK GOODS AND THE SALE
OR DEALING IN OF COUNTERFEIT TRADE-MARK GOODS.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every person who shall, with intent to defraud, deal in or sell, or keep or offer for sale, or cause or procure the sale of, any goods of substantially the same descriptive properties as those referred to in the registration of any trade-mark, pursuant to the statutes of the United States, to which, or to the package in which the same are put up, is fraudulently affixed said trade-mark, or any colorable imitation thereof, calculated to deceive the public, knowing the same to be counterfeit or not the genuine goods referred to in said registration, shall, on conviction thereof, be punished by fine not exceeding one thousand dollars, or imprisonment not more than two years, or both such fine and imprisonment.

SEC. 2. That every person who fraudulently affixes, or causes or procures to be fraudulently affixed, any trade-mark registered pursuant to the statutes of the United States, or any colorable imitation thereof, calculated to deceive the public, to any goods, of substantially the same descriptive properties as those referred to in said registration, or to the package in which they are put up, knowing the same to be counterfeit, or not the genuine goods referred to in said registration, shall, on conviction thereof, be punished as prescribed in the first section of this act.

SEC. 3. That every person who fraudulently fills, or causes or procures to be fraudulently filled, any package to which is affixed any trade-mark, registered pursuant to the statutes of the United States, or any colorable imitation thereof, calculated to deceive the public, with any goods of substantially the same descriptive properties as those referred to in said registration, knowing the same to be counterfeit, or not the genuine goods referred to in said registration, shall, on conviction thereof, be punished as prescribed in the first section of this act.

SEC. 4. That any person or persons who shall, with intent to defraud any person or persons, knowingly and willfully cast, engrave, or manufacture, or have in his, her, or their possession, or buy, sell, or offer for sale, or deal in, any die or dies, plate or plates, brand or brands, engraving or engravings, on wood, stone, metal, or other substance, moulds, or any false representation, likeness, copy, or colorable imitation of any die, plate, brand, engraving, or mould of any private label, brand, stamp, wrapper, engraving on paper or other substance, or trade-mark, registered pursuant to the statutes of the United States, shall, upon conviction thereof, be punished as prescribed in the first section of this act.

SEC. 5. That any person or persons who shall, with intent to defraud any person or persons, knowingly and willfully make, forge, or counterfeit, or have in his, her, or their possession, or buy, sell, offer for sale, or deal in, any representation, likeness, similitude, copy, or colorable

imitation of any private label, brand, stamp, wrapper, engraving, mould, or trade-mark, registered pursuant to the statutes of the United States, shall, upon conviction thereof, be punished as prescribed in the first section of this act.

SEC. 6. That any person who shall, with intent to injure or defraud the owner of any trade-mark, or any other person lawfully entitled to use or protect the same, buy, sell, offer for sale, deal in or have in his possession any used or empty box, envelope, wrapper, case, bottle, or other package, to which is affixed, so that the same may be obliterated without substantial injury to such box or other thing aforesaid, any trade-mark, registered pursuant to the statutes of the United States, not so defaced, erased, obliterated, and destroyed so as to prevent its fraudulent use, shall, on conviction thereof, be punished as prescribed in the first section of this act.

SEC. 7. That if the owner of any trade-mark, registered pursuant to the statutes of the United States, or his agent, make oath, in writing, that he has reason to believe, and does believe, that any counterfeit dies, plates, brands, engravings on wood, stone, metal, or other substance, or moulds of his said registered trade-mark, are in the possession of any person, with intent to use the same for the purpose of deception and fraud, or makes such oaths that any counterfeits or colorable imitations of his said trade-mark, label, brand, stamp, wrapper, engraving on paper or other substance, or empty box, envelope, wrapper, case, bottle, or other package, to which is affixed said registered trade-mark not so defaced, erased, obliterated, and destroyed as to prevent its fraudulent use, are in the possession of any person, with intent to use the same for the purpose of deception and fraud, then the several judges of the circuit and district courts of the United States and the commissioners of the circuit courts may, within their respective jurisdictions, proceed under the law relating to search-warrants, and may issue a search-warrant authorizing and directing the marshal of the United States for the proper district to search for and seize all said counterfeit dies, plates, brands, engravings on wood, stone, metal, or other substance, moulds, and said counterfeit trade-marks, colorable imitations thereof, labels, brands, stamps, wrappers, engravings on paper, or other substance, and said empty boxes, envelopes, wrappers, cases, bottles, or other packages that can be found; and upon satisfactory proof being made that said counterfeit dies, plates, brands, engravings on wood, stone, metal, or other substance, moulds, counterfeit trade-marks, colorable imitations thereof, labels, brands, stamps, wrappers, engravings on paper or other substance, empty boxes, envelopes, wrappers, cases, bottles, or other packages, are to be used by the holder or owner for the purposes of deception and fraud, that any of said judges shall have full power to order all said counterfeit dies, plates, brands, engravings on wood, stone, metal, or other substance, moulds, counterfeit trade-marks,

colorable imitations thereof, labels, brands, stamps, wrappers, engravings on paper or other substance, empty boxes, envelopes, wrappers, cases, bottles, or other packages, to be publicly destroyed.

SEC. 8. That any person who shall, with intent to defraud any person or persons, knowingly and willfully aid or abet in the violation of any of the provisions of this act, shall, upon conviction thereof, be punished by a fine not exceeding five hundred dollars, or imprisonment not more than one year, or both such fine and imprisonment.

Approved August 14, 1876.

RULES AND FORMS ADOPTED BY THE UNITED STATES PATENT
OFFICE FOR THE REGISTRATION OF TRADE-MARKS UNDER
THE ACT OF MARCH 3, 1881.

UNITED STATES PATENT OFFICE,
Washington, D. C., December 17, 1884.

The following regulations, designed to be in strict accordance with the provisions of the act of March 3, 1881, for the registration of trade-marks, are published for gratuitous distribution.

Applicants for registration and their attorneys are advised that their business will be facilitated by the observance as closely as possible of the appended forms.

BENJ. BUTTERWORTH,
Commissioner of Patents.

WHO MAY OBTAIN REGISTRATION.

1. (a.) Any person, firm, or corporation domiciled in the United States or located in any foreign country which, by treaty, convention, or law, affords similar privileges to citizens of the United States,* and who is entitled to the exclusive use of any trade-mark and uses the same in commerce with foreign nations or with Indian tribes.

(b.) Any citizen or resident of this country wishing the protection of his trade-mark in any foreign country the laws of which require registration in the United States as a condition precedent.

STATUTORY REQUIREMENTS.

2. Every applicant for registration of a trade-mark must cause to be recorded in the Patent Office—

(a.) The name, domicile, and place of business or location of the firm or corporation desiring the protection of the trade-mark, and the residence and citizenship of individual applicants.

(b.) The class of merchandise and the particular description of goods comprised in such class to which the trade-mark has been appropriated.

* For a list of the countries having treaties with the United States at this time see page 24.

(c.) A description of the trade-mark itself, with fac-similes thereof, and the mode in which it has been applied and used.

(d.) The length of time during which the trade-mark has been used by the applicant on the class of goods described.

3. A fee of twenty-five dollars is required on filing each application, except in the cases hereinafter named. (See pars. 17 and 18.)

THE APPLICATION.

4. An application for the registration of a trade-mark will consist of a statement or specification, a declaration or oath, and the fac-simile, with duplicates thereof. The statement and declaration should be written on one side of the paper only.

5. These should be preceded by a brief letter of advice requesting registration and signed by the applicant.

6. The statement should announce the full name, citizenship, domicile, residence, and place of business of the applicant (or, if the applicant be a corporation, under the laws of what State or nation incorporated), with a full and clear specification of the trade-mark, particularly discriminating between its essential and non-essential features. It should also state from what time the trade-mark has been used by the applicant, the class of merchandise, and the particular goods comprised in such class to which the trade-mark is appropriated, and the manner in which the trade-mark has been applied to the goods. (See form, p. 16.)

7. The declaration should be in the form of an oath by the person, or by a member of the firm, or by an officer of the corporation making the application, to the effect that the party has at the time of filing his application a right to the use of the trade-mark described in the statement; that no other person, firm, or corporation has a right to such use, either in the identical form or in such near resemblance thereto as might be calculated to deceive; that such trade-mark is used in lawful commerce with foreign nations or Indian tribes, one or more of which should be particularly named; and that it is truly represented in the fac-simile presented for registry. (See form, p. 18.)

8. This oath may be taken within the United States before a notary public, justice of the peace, or the judge or clerk of any court of record. In any foreign country it may be taken before the secretary of a legation or consular officer of the United States, or before any person duly qualified by the laws of the country to administer oaths, whose official character shall be certified by a representative of the United States having an official seal.*

FAC-SIMILES TO BE FILED.

9. Where the trade-mark can be represented by a fac-simile which conforms to the rules for drawings of mechanical patents,† such a

* See Appendix, Rule 46.

† See Appendix, Rule 50.

drawing may be furnished by applicant, and the additional copies will be produced by the photolithographic process at the expense of the office. Or the applicant may furnish one fac-simile of the trade-mark, mounted on a card ten by fifteen inches in size, and ten additional copies upon flexible paper, not mounted; but in all cases the sheet containing the mounted fac-simile or the drawing must be signed by the applicant or his authorized attorney, and authenticated by two witnesses.

PROCEEDINGS IN THE OFFICE.

10. All applications for registration are considered in the first instance by the trade-mark examiner. An adverse decision by such examiner upon the applicant's right to registration will be reviewed by the Commissioner in person upon petition without fee.

11. No trade-mark will be registered unless it shall be made to appear that the same is used as such by the applicant in commerce between the United States and some foreign nation or Indian tribe, or is within the provisions of a treaty, convention, or declaration with a foreign power, nor which is merely the name of the applicant, nor which is identical with a known or registered trade-mark owned by another and appropriated to the same class of merchandise, or which so nearly resembles some other person's lawful trade-mark as to be likely to cause confusion in the mind of the public or to deceive purchasers.

12. The statement may be amended to correct informalities or to avoid objections made by the office, or for other reasons arising in the course of examination; but no amendments will be admitted unless warranted by something in the statement or fac-simile as originally filed. In respect to amendments the established rules in regard to applications for patent will be observed.* The declaration cannot be amended. If that filed with the application is faulty or defective, a substitute declaration may be filed.

13. In case of conflicting applications for registration, or in any dispute as to the right to use which may arise between an applicant and a prior registrant, the office will declare an interference, in order that the parties may have opportunity to prove priority of adoption or right; and the proceedings on such interference will follow, as nearly as practicable, the practice in interferences upon applications for patents; but each applicant and registrant will be held to the date of adoption alleged in the statement filed with his application. On the petition of any party dissatisfied with the decision of the examiner of interferences the case will be reviewed by the Commissioner without fee.

14. When these requirements have been complied with, and the office has adjudged the trade-mark lawfully registrable, a certificate will be issued by the Commissioner, under seal of the Interior Department, to the

* See Appendix, par. 71, *et seq.*

effect that applicant has complied with the law, and that he is entitled to the protection of his trade-mark in such case made and provided. Attached to the certificate will be a fac-simile of the trade-mark and a printed copy of the statement and declaration.

15. The protection for such trade-mark will remain in force for thirty years, and may, upon the payment of a second fee, be renewed for thirty years longer, except in cases where such trade-mark is claimed for and applied to articles not manufactured in this country, and in which it receives protection under the laws of any foreign country for a shorter period, in which case it will cease to have force in this country, by virtue of the registration, at the same time that the trade-mark ceases to be exclusive property elsewhere.

16. The right to the use of any trade-mark is assignable by an instrument in writing, and such assignment of a registered trade-mark must be recorded in the Patent Office within sixty days after its execution, in default of which it may be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice. No particular form of assignment or conveyance is prescribed, but the trade-mark must be identified by the certificate number.

17. Owners of trade-marks for which protection has been sought by registering them in the Patent Office under the act of July 8, 1870 (declared unconstitutional by the Supreme Court of the United States), may register the same for the same goods, without fee, on compliance with the foregoing requirements. With each application of this character a specific reference to the date and number of the former certificate is required.

18. Applicants whose cases were filed under the act of 1870, either prior to or since the decision of the Supreme Court declaring it unconstitutional, which are now pending before the office, are advised to prepare applications in conformity with the law and foregoing rules. On the receipt of such an application, referring to the date of the one formerly filed, all fees paid thereon will be duly applied. Those who have paid only \$10 as a first fee are advised that the law does not provide for a division of the legal fee of \$25, and that the remainder of the entire fee is required before the application can be entertained.

COPIES AND PUBLICATIONS.

19. Printed copies of the statement and declaration in each case, with a duplicate of the trade-mark, can be furnished by the office.

The Official Gazette of the Patent Office, published weekly, will contain a list of all trade-marks registered, with the name and address of the registrant, a brief statement of the essential features of the trade-mark, and the particular description of goods to which it is applied.

FEES.

20. On filing an application for registration of a trade-mark...	\$25 00
For abstracts of title:	
For the certificate of search.....	1 00
For each brief from the digests of assignments.....	20
For copies of matter in any foreign language, for every one hundred words or fraction thereof.....	20
For translation, for every one hundred words or fraction thereof.	50
For recording every assignment, agreement, power of attorney, or other paper, of three hundred words or under	1 00
For recording every assignment, agreement, power of attorney, or other paper of over three hundred words and under one thousand words.....	2 00
For recording every assignment, agreement, power of attorney, or other paper of over one thousand words	3 00
For assistance to attorneys and others in the examination of records, one hour or less.....	50
Each additional hour or fraction thereof.....	50
For single printed copy of statement and declaration.....	25
Single copy of Official Gazette.....	10
Annual subscription Official Gazette	5 00

CORRESPONDENCE.

21. All letters should be addressed to "The Commissioner of Patents"; and all remittances by postal order, check, or draft should be to his order.

22. Letters relating to pending applications should refer to the name of the applicant and date of filing. Letters relating to registered trade-marks must refer to the name of registrant, number or date of certificate, and the class of merchandise to which the trade-mark is applied.

23. The office cannot undertake to respond to inquiries propounded with a view to ascertain whether certain trade-marks have been registered, or, if so, to whom, or for what goods; nor can it give advice as to the nature and extent of the protection afforded by the law, or act as its expounder, except as questions may arise upon applications regularly filed. A copy of these rules with this paragraph marked will be regarded as a courteous answer to all such inquiries.

FORMS.

The following forms illustrate the manner of preparing papers for applications for registration of trade-marks. Their use is not absolutely required, but as they have been made to conform to the conditions of the law, applicants will find their business facilitated by following them closely:

(1.) LETTER OF ADVICE.

To the Commissioner of Patents :

The undersigned presents herewith a fac-simile of his lawful trade-mark and requests that the same, together with the accompanying statement and declaration, may be registered in the United States Patent Office in accordance with the law in such cases made and provided.

A. B.

(2.) STATEMENT BY AN INDIVIDUAL.

To all whom it may concern :

Be it known that I, A. B., a citizen of the United States, residing at Baltimore, Maryland, and doing business at No. — — — st., in said city, have adopted for my use a trade-mark for whisky, of which the following is a full, clear, and exact specification :

My trade-mark consists of the word-symbol Moonshine. This has generally been arranged as shown in the accompanying fac-simile, which represents a rude still-house surrounded by hills and forests. Three men are engaged variously about, and the scene is illuminated partly by the light of the fire, partly by the moon which appears in the heavens. Underneath the picture appears the word "moonshine" in ornamental letters; but the style of lettering is unimportant, and the entire picture may be omitted or changed at pleasure without materially affecting the character of my trade-mark, the essential feature of which is the arbitrary word Moonshine.

This trade-mark I have used continuously in my business since July 4, 1876. The class of merchandise to which this trade-mark is appropriated is distilled liquors, and the particular description of goods comprised in said class upon which I use it is whisky. It is my practice to apply my trade-mark to the bottles containing the liquor by means of suitable labels, on which it is printed in color, as above described. The word is sometimes also blown into the bottles.

A. B.

Witnesses:

C. D.

E. F.

(3.) STATEMENT BY A FIRM.

To all whom it may concern :

Be it known that we, C. D. & Co., a firm domiciled in Brooklyn, Kings County, State of New York, and doing business at No. ——— st., in said city, have adopted for our use a trade-mark for men's overalls, of which the following is a full, clear, and exact specification :

Our trade-mark consists of the arbitrary word Toulon. This has generally been arranged as shown in the accompanying fac-simile, in which it appears in plain, block capitals, printed in black in a horizontal line. But other forms of type may be employed, or it may be differently arranged or colored, without materially altering the character of our trade-mark, the essential feature of which is the word Toulon.

This trade-mark has been used continuously in business by us and those from whom we derive our title since July 11, 1840.

The class of merchandise to which this trade-mark is appropriated is wearing-apparel, and the particular description of goods comprised in such class on which it is used by us is men's overalls. It has been our practice to mark our trade-mark on the inside of the waistband of the goods with a stencil, or to print it upon tags which are secured to the goods in any desired manner.

C. D. & CO.

Witnesses :

D. E.

F. G.

(4.) STATEMENT BY A CORPORATION.

To all whom it may concern :

Be it known that the Rocky Mountain Mill Company, a corporation organized under the laws of the Territory of Dakota, and located in the city of Garfield, Hancock County, in said Territory, and doing business in said city of Garfield, and also at Chicago, Illinois, has adopted for its use a trade-mark for wheat flour, of which the following is a full, clear, and exact specification :

The trade-mark of said company consists of a representation of a Rocky Mountain sheep and the words Big Horn. These have generally been arranged as shown in the accompanying fac-simile, in which the animal named, popularly known as the "Big Horn," is represented in an erect attitude upon a cliff or rock. In the back ground are mountains covered with forests, with distant white peaks ; upon the sky portion are the words Big Horn, and arranged in a circle about the whole are the words Rocky Mountain Mill Company in plain capital letters. But these words may be omitted, and the various accessories of the picture may be varied at pleasure or altogether omitted, without materially altering the character of the said trade-mark, the essential features of which are the words Big Horn and the representation of a Rocky Mountain sheep.

This trade-mark has been continuously used by said corporation since about the middle of October, 1884.

The class of merchandise to which this trade-mark is appropriated is flour, and the particular description of goods comprised in such class on

which it is used by the said company is wheat flour. It is usually affixed to the goods by printing it on the bags, or stenciling it on the heads of barrels in which the flour is packed.

ROCKY MOUNTAIN MILL COMPANY,
By G. F., *President*.

Witnesses:*

J. H.

L. K.

(5.) DECLARATION.

STATE OF——, COUNTY OF——, ss:

A. B., being duly sworn, deposes and says that he is the applicant named in the foregoing statement; that he verily believes that the foregoing statement is true; that he has at this time a right to the use of the trade mark therein described; that no other person, firm, or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that it is used by him in commerce between the United States and foreign nations or Indian tribes, and particularly with —— (*here name one or more foreign nations or Indian tribes, or both, as the case may be*); and that the description and fac-similes presented for record truly represent the trade-mark sought to be registered.

A. B.

Sworn and subscribed before me, a ——, this —— day of ——, 18—.

G. H., *J. P.*

If the application is made by a firm or corporation, this declaration should be modified accordingly. Thus—

FOR A FIRM.

A. B., being duly sworn deposes and says that he is a member of the firm, the applicant named, etc., etc., * * * that the trade-mark is used by the said firm in commerce, etc., etc.

FOR A CORPORATION.

A. B., being duly sworn, deposes and says that he is secretary (*or other officer*) of the corporation, the applicant named in the foregoing statement, etc., etc., * * * that the trade-mark is used by said corporation in commerce, etc., etc.

*If the corporation have a seal it may be used to authenticate the signature of the officer.

(6.) AMENDMENT.

To the Commissioner of Patents :

In the matter of my application for registration of trade-mark for watches, No. 5319, filed June 11, 1876, I desire to amend my statement as follows :

Page 1, line 16, cancel the words "the arbitrary word Zenith," and insert in the place thereof the following: *the representation of a five-pointed star, having the word Zenith printed across its face.*

Same page, line 20, erase "about four years" and insert *since July 1st, 1872.*

A. B.,
By P. & Q.,
His attorneys.

Dated GENEVA, SWITZERLAND, October 1, 1876.

CIRCULAR.

TRADE-MARKS.

[1883. Department No. 57. Secretary's Office.]

TREASURY DEPARTMENT,
Washington, D. C., May 15, 1883.

To collectors of customs and others :

The attention of customs officers is invited to the following section of law, embodied in the act approved March 3, 1883, viz :

“SECTION 2496. No watches, watch-cases, watch-movements, or parts of watch-movements, *or any other articles* of foreign manufacture, which shall copy or simulate the name or trade-mark of any domestic manufacture, [manufacturer,] shall be admitted to entry at the custom-house of the United States, unless such domestic manufacturer is the importer of the same. And in order to aid the officers of the customs in enforcing this prohibition, any domestic manufacturer who has adopted trade-marks may require his name and residence and a description of his trade-marks to be recorded in books which shall be kept for that purpose in the Department of the Treasury, under such regulations as the Secretary of the Treasury shall prescribe, and may furnish to the Department *fac similes* of such trade-marks; and thereupon the Secretary of the Treasury shall cause one or more copies of the same to be transmitted to each collector or other proper officer of the customs.”

Applications for the recording of names or trade-marks in this Department will mention the name and residence of the domestic manufacturer, and furnish a description of the mark. No such name will be received unless recorded in the Patent Office, as mentioned in Chapter 2, Title LX, Revised Statutes; and the fact must be shown by the production of a copy of the mark, certified by the Commissioner of Patents, under the seal of the Patent Office, in the manner set forth in said chapter, and also of the necessary *fac-similes*, under the seal of the Patent Office, to be forwarded to collectors of customs.

On the receipt by a customs officer of any such *fac-similes*, with information from the Department that they have been recorded therein, he will properly record and file them, and will exercise care to prevent the entry at the custom-house of any article of foreign manufacture copying or simulating such mark, not imported by the owner of such name or trade-mark.

H. F. FRENCH,
Acting Secretary.

REGISTRATION OF PRINTS AND LABELS.

Sections 3, 4, and 5 of the act of Congress relating to patents, trademarks, and copyrights, approved June 18, 1874 (18 Statutes at Large, p. 78), are as follows :

SEC. 3. That in the construction of this act the words "engraving, cut, and print" shall be applied only to pictorial illustrations or works connected with the fine arts, and no prints or labels designed to be used for any other articles of manufacture shall be entered under the copyright law, but may be registered in the Patent Office. And the Commissioner of Patents is hereby charged with the supervision and control of the entry or registry of such prints or labels, in conformity with the regulations provided by law as to copyright and prints, except that there shall be paid for recording the title of any print or label, not a trade-mark, six dollars, which shall cover the expense of furnishing a copy of the record, under the seal of the Commissioner of Patents, to the party entering the same.

SEC. 4. That all laws and parts of laws inconsistent with the foregoing provisions be and the same are hereby repealed.

SEC. 5. That this act shall take effect on and after the first day of August, eighteen hundred and seventy-four.

The words "prints" and "labels" as used in this act, so far as it relates to registration in the Patent Office, are construed as synonymous, and are defined as any device, picture, word or words, figure or figures (not a trade-mark) impressed or stamped directly upon the articles of manufacture, or upon a slip or piece of paper, or other material, to be attached in any manner to manufactured articles, or to bottles, boxes, and packages containing them, to indicate the contents of the package, the name of the manufacturer or the place of manufacture, the quality of goods, directions for use, &c.

By the words "articles of manufacture" (to which such print or label is applicable by this act) is meant all vendible commodities produced by hand, machinery, or art.

But no such print or label can be registered unless it properly belongs to an article of commerce, and be as above defined ; nor can the same be registered as such print or label when it amounts to a lawful trade-mark, or when its use in connection with the article to which it is applied is arbitrary or fanciful.

To entitle the owner of any such print or label to register the same in this office, it is necessary that five copies of the same be filed, one of

which copies shall be certified under the seal of the Commissioner of Patents, and returned to the registrant.

The certificate of such registration will continue in force for twenty-eight years.

It has been held in a United States circuit court that the use of a label in the sale of the merchandise it is intended to designate prior to the deposit of such label in the Patent Office, amounts to a publication thereof (*Marsh et al. v. Warren et al.*, XIV, O. G., 678). Since in the same decision the court held that in a suit for infringement of a registered label the bill must aver that the title and label were deposited before publication, it is evident that any such use will vitiate a registration subsequently effected.

The fee for registration of a print or label is six dollars, to be paid in the same manner as fees for patents.

The benefits of this act seem to have been originally confined to citizens or residents of the United States; but are extended by existing treaties to British, German, Italian, and Belgian subjects.

FORM OF APPLICATION FOR REGISTRATION OF PRINTS AND LABELS

[Making necessary changes to suit each case.]

For an individual.

To the Commissioner of Patents:

The undersigned, A. B., of the city of Brooklyn, county of Kings, and State of New York, and a citizen of the United States (or resident therein, as the case may be), hereby furnishes five copies of a label (or print, as the case may be), to be used for _____, of which he is the sole proprietor. The title of said label (or print) is _____, and the said label (or print) consists of the words and figures as follows, to wit: _____ (Description.)

And he hereby requests that the said print (or label) be registered in the Patent Office, in accordance with the act of Congress to that effect, approved June 18, 1874.

BROOKLYN, N. Y., August 1, 1874.

_____,
Proprietor.

For a corporation.

To the Commissioner of Patents:

The applicant, a corporation created by authority of the laws of the State of New York (or other authority, as the case may be), and doing business at _____, in said State, hereby furnishes five copies of a label (or print, as the case may be), to be used for _____, of which it is the

sole proprietor. The title of said print (or label) is ———, and the said label consists of the words and figures as follows, to wit: ——— (Description.)

And it is hereby requested that the said label (or print) be registered in the Patent Office, in accordance with the act of Congress to that effect, approved June 18, 1874.

[L. S.] Witness the seal of said corporation at ———, ———, 1874.

President [or other officer].

NOTE.

The registration of copyright matter is, by law, under the control of the Librarian of Congress at Washington. At the time of the enactment of the trade-mark law of July 8, 1870, it was the custom of the Librarian of Congress to enter, under the provisions of the copyright law, labels and prints of commerce, many of which embraced legal trade-marks. Notwithstanding the existence of a separate statute in 1870 for the registration of trade-marks, the Librarian of Congress, in entering labels and prints of commerce, gave a semblance of protection to many trade-marks, of which the labels and prints entered by him were the mere vehicles. To remedy this difficulty was the object of the amendment to the copyright law of June 18, 1874, referred to herein as the act for the registration of prints and labels. By this amendatory act the Librarian of Congress is restricted, in the registry of copyright matter, to pictorial illustrations or works connected with the fine arts, and is prohibited from registering labels or prints designed to be used for any other articles of manufacture, *i. e.*, articles of commerce. These are now registrable at the Patent Office; while matter properly coming within the definition of copyright subject-matter, as contained in the act of June 18, 1874, is registrable at the office of the Librarian of Congress.

TRADE-MARK TREATIES WITH FOREIGN NATIONS.

The following is a list of the Governments with which conventions for the reciprocal registration and protection of trade-marks have been entered into by the United States, with the dates of the respective conventions. For the full text of those which have been published in the Official Gazette reference is made thereto. For others, to the volume and page of United States Statutes at Large. The laws of Switzerland and the Netherlands being so framed as to afford reciprocal privileges to the citizens or subjects of any Government which affords similar privileges to the people of those countries, the mere exchange of diplomatic notes, giving notice of the fact, accomplishes all the purposes of a formal convention. The reference to the Official Gazette opposite these nations gives the full text of their trade-mark laws :

Country.	Date.	Reference.
Austria-Hungary.....	June 1, 1872	Stat., 17, p. 917
Belgium.....	July 30, 1869	Stat., 16, p. 765
Do.....	July 9, 1884	O. G., 29, p. 452
Brazil.....	Sept. 24, 1878	Stat., 21, p. 659
France.....	Apr. 16, 1869	Stat., 16, p. 771
German Empire.....	June 1, 1872	Stat., 17, p. 921
Great Britain.....	July 17, 1878	O. G., 14, p. 233
Italy.....	Mar. 19, 1884	O. G., 27, p. 304
Russia.....	June 27, 1868	Stat., 16, p. 725
Serbia.....	Dec. 27, 1882	Stat., 22, p. 966
Spain.....	Apr. 19, 1883	O. G., 25, p. 98
Switzerland.....	May 16, 1883	O. G., 23, p. 2237
The Netherlands.....	Feb. 16, 1883	O. G., 23, p. 1334

APPENDIX.

The following extracts from the Rules of Practice of the Patent Office involve such matter as is general in its application, and to which reference has frequently to be made in actions upon trade-mark cases.

CORRESPONDENCE.

1. All business with the office should be transacted in writing. Unless by the consent of all parties, the action of the office will be based exclusively on the written record. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

2. All office letters must be sent in the name of the "Commissioner of Patents." All letters and other communications intended for the office must be addressed to him; if addressed to any of the other officers they will ordinarily be returned.

3. Express charges, freight, postage, and all other charges on matter sent to the Patent Office must be prepaid in full; otherwise it will not be received.

4. The personal attendance of applicants at the Patent Office is unnecessary. Their business can be transacted by correspondence.

7. When an attorney shall have filed his power of attorney duly executed, the correspondence will be held with him.

8. A double correspondence with the inventor and an assignee, or with a principal and his attorney, or with two attorneys, cannot generally be allowed.

9. A separate letter should in every case be written in relation to each distinct subject of inquiry or application. Assignments for record, final fees, and orders for copies or abstracts must be sent to the office in separate letters.

13. Letters received at the office will be answered, and orders for printed copies filled, without unnecessary delay. Telegrams, if not received before 3 o'clock p. m., cannot ordinarily be answered until the following day.

ATTORNEYS.

17. Any person of intelligence and good moral character may appear as the agent or the attorney in fact of an applicant, upon filing a proper power of attorney. As the value of patents depends largely upon the careful preparation of the specifications and claims, the assistance of competent counsel will, in most cases, be of advantage to the applicant; but the value of their services will be proportionate to their skill and honesty, and too much care cannot be exercised in their selection. The office cannot assume responsibility for the acts of attorneys, nor can it assist applicants in making selections. It will, however, be un-

safe to trust those who pretend to the possession of any facilities except capacity and diligence for procuring patents in a shorter time or with broader claims than others.

18. Before any attorney, original or associate, will be allowed to inspect papers or take action of any kind, his power of attorney must be filed. No power of attorney purporting to have been given to a firm or copartnership will be recognized, either in favor of the firm or of any of its members, unless all its members shall be named in such power of attorney.

19. Substitution or association can be made by an attorney upon the written authorization of his principal; but such authorization will not empower the second agent to appoint a third.

20. Powers of attorney may be revoked at any stage in the proceedings of a case upon application to and approval of the Commissioner; and when so revoked the office will communicate directly with the applicant, or such other attorney as he may appoint. Attorneys will be promptly notified by the examiner in charge of the case of the revocation of their powers of attorney. An assignment of an undivided interest will not operate as a revocation of the power previously given, but the assignee of the entire interest may be represented by an attorney of his own selection.

21. Parties or their attorneys will be permitted to examine their cases in the attorney's room, but not in the rooms of the examiners. Personal interviews with examiners will be permitted only as hereinafter provided.

22. Attorneys will be required to conduct their business with the office with decorum and courtesy. Papers presented in violation of this requirement will ordinarily be returned. Complaints against examiners and other officers must be made in separate communications and will be promptly investigated. For gross misconduct the Commissioner may refuse to recognize any person as a patent agent, either generally or in any particular case; but the reasons for such refusal will be duly recorded and be subject to the approval of the Secretary of the Interior.

23. Inasmuch as applications cannot be examined out of their regular order, except in accordance with the provisions of Rule 62, and members of Congress can neither examine nor act in patent cases without written powers of attorney, applicants are advised not to impose upon Senators or Representatives labor which will consume their time without any advantageous results.

OATHS.

46. Ext. * * * When the person before whom the oath or affirmation is made is not provided with a seal his official character shall be established by competent evidence, as by a certificate from a clerk of a court of record or other proper officer having a seal.

(A certificate of the official character of a magistrate, stating date of appointment and term of office, may be filed in the Patent Office, which will obviate the necessity of separate certificates in individual cases.)

DRAWINGS.

(Extracts from Rule 50.)

1. Drawings must be made upon pure white paper of a thickness corresponding to three-sheet Bristol board. The surface of the paper

must be calendered and smooth. India ink alone must be used, to secure perfectly black and solid lines.

2. The size of a sheet on which a drawing is made must be exactly 10 by 15 inches. One inch from its edges a single marginal line is to be drawn, leaving the "sight" precisely 8 by 13 inches. Within this margin all work and signatures must be included. One of the shorter sides of the sheet is regarded as its top, and, measuring downward from the marginal line, a space of not less than $1\frac{1}{4}$ inches is to be left blank for the heading of title, name, number, and date.

3. All drawings must be made with the pen only. Every line and letter (signatures included) must be absolutely black. This direction applies to all lines, however fine, to shading, and to lines representing cut surfaces in sectional views. All lines must be clean, sharp, and solid, and they must not be too fine or crowded. Surface shading, when used, should be open. Sectional shading should be made by oblique parallel lines, which may be about one-twentieth of an inch apart.

7. The signature of the inventor is to be placed at the lower right-hand corner of the sheet, and the signatures of the witnesses at the lower left-hand corner, all within the marginal line. (See specimen drawing, page 58.) The title is to be written with pencil on the back of the sheet. The permanent names and title will be supplied subsequently by the office in uniform style.

9. Drawings should be rolled for transmission to the office, not folded. No agent's or attorney's stamp, or advertisement, or written address, will be permitted upon the face of a drawing within or without the marginal line.

54. Applicants are advised to employ competent artists to make their drawings. The office will furnish the drawings at cost as promptly as its draftsmen can make them, for applicants who cannot otherwise conveniently procure them.

No employes of the Patent Office, except those regularly assigned to such duty, will make any drawings, whether copies or originals, for applicants, agents, or attorneys.

AMENDMENTS AND ACTIONS BY APPLICANTS.

71. After the completion of the application the office will not return the specification for any purpose whatever. The model or drawing (but not both at the same time) may be withdrawn for correction. If applicants have not preserved copies of such papers as they wish to amend, the office will furnish them on the usual terms.

72. All amendments of specifications or claims must be made on sheets of paper separate from the original. Even when the amendment consists in striking out a portion of the specification or of the claims, the same course must be observed. Erasures must not be made by the applicant. In every case of amendment the exact word or words to be stricken out or inserted must be clearly specified, and the precise point indicated where the erasure or insertion is to be made.

73. When an amendatory clause is amended it must be wholly rewritten, so that no interlineation or erasure shall appear in the clause, as finally amended, when the case is passed to issue. If the number or nature of the amendments shall render it otherwise difficult to consider the case, or to arrange the papers for printing or copying, the examiner or Commissioner may require the entire specification to be rewritten.

HEARINGS AND INTERVIEWS.

146. Hearings will be had by the Commissioner at 10 o'clock a. m., and by the board of examiners-in-chief and the examiner of interferences at 1 o'clock p. m., on the day appointed, unless some other hour be specially designated. If either party in a contested case, or the appellant in an *ex parte* case, appear at the proper time, he will be heard by the examiner of interferences or the examiners-in-chief; but a contested case will not be taken up for oral argument after the day of hearing, except by consent of both parties. If the engagements of the tribunal having jurisdiction of the case be such as to prevent it from being taken up on the day of hearing a new assignment will be made, or the case will be continued from day to day until heard. Unless it shall be otherwise ordered before the hearing begins, oral arguments will be limited to one hour for each party. After a contested case has been argued, nothing further relating thereto will be heard unless upon request of the tribunal having jurisdiction of the case; and all interviews for this purpose with parties in interest or their attorneys will be invariably denied.

147. Interviews with examiners concerning applications and other matters pending before the office must be had at such times, within office hours, as the respective examiners may designate, in the examiners' rooms, with the principal examiners, or, in their absence, with the assistants in charge. They will not be had at any other time or place without the written authority of the Commissioner.

148. Interviews for the discussion of pending applications will not be had prior to the first official action thereon.

COPIES, FEES, ETC.

210. An order for a copy of an assignment must give the liber and page of the record, as well as the name of the inventor; otherwise an extra charge will be made for the time consumed in making any search for such assignment.

211. No person will be allowed to make copies or tracings from the files or records of the office. Such copies will be furnished, when ordered, at the rates already specified.

212. The money required for office fees may be paid to the Commissioner, or to the Treasurer, or any of the assistant treasurers of the United States, or to any of the designated depositaries, national banks, or receivers of public money, designated by the Secretary of the Treasury for that purpose, who shall give the depositor a receipt or certificate of deposit therefor, which shall be transmitted to the Patent Office. When this cannot be done without much inconvenience, the money may be remitted by mail, and in every such case the letter should state the exact amount inclosed. Letters containing money may be registered. Post-Office money orders now afford a safe and convenient mode of transmitting fees. All such orders should be made payable to the "Commissioner of Patents."

213. The weekly issue will close on Thursday, and the patents of that issue will bear date as of the third Tuesday thereafter. If the final fee in any application is not paid on or before Thursday the patent will not go to issue until the following week.

214. All money sent by mail, either to or from the Patent Office, will be at the risk of the sender. In no case should money be sent inclosed

with models. All payments to or by the office must be made in specie, Treasury notes, national bank notes, certificates of deposit, or Post-Office money orders.

REPAYMENT OF MONEY.

215. Money paid by actual mistake, such as a payment in excess, or when not required by law, or by neglect, or misinformation on the part of the office, will be refunded ; but a mere change of purpose after the payment of money, as when a party desires to withdraw his application for a patent, or for the registration of a trade-mark, or an appeal, will not entitle a party to demand such a return.

CLASSIFICATION OF REGISTERED TRADE-MARKS.

1. Agricultural implements. (See Title 41, 73.)
2. Baking powder and yeast.
3. Beverages. (See Title 42.)
4. Blacking and leather dressing. (See Title 12.)
5. Boots, shoes, and lasts. (See Title 57.)
6. Brooms and brushes.
7. Buttons. (See Title 22.)
8. Canned goods. (See Title 16, 26.)
9. Carpets, &c.
10. Cement, plaster, and bricks.
11. Cigars and cigarettes. (See Title 71.)
12. Cleaning and polishing preparations. (See Title 4.)
13. Coffee and tea.
14. Confectionery.
15. Corsets. (See Title 75.)
16. Cured meats. (See Title 8, 26, 37.)
17. Cutlery and edge tools. (See Title 73, 68.)
18. Dairy products.
19. Dentistry.
20. Drugs and chemicals. (See Title 44, 53, 72.)
21. Dry goods. (See Title 22, 69.)
22. Fancy goods. (See Title 7, 21, 30, 47.)
23. Fertilizers.
24. Fire-arms, ammunition, and explosives.
25. Flour.
26. Food and relishes. (See Title 8, 16.)
27. Fuel.
28. Games and toys. (See Title 46.)
29. Glassware. (See Title 32, 55.)
30. Gloves. (See Title 22.)
31. Head-wear.
32. Household articles. (See Title 29, 35, 55.)
33. Inks. (See Title 65.)
34. Iron, steel, and manufactures. (See Title 41, 73.)
35. Jewelry and plated ware. (See Title 32, 70.)
36. Lamps, lanterns, &c. (See Title 29.)
37. Lard and tallow. (See Title 16.)
38. Laundry articles. (See Title 61, 64.)
39. Leather and saddlery.
40. Locks and hardware. (See Title 72, 73.)

41. Machines. (See Title 1, 34, 73.)
42. Malt liquors. (See Title 3.)
43. Matches.
44. Medical compounds. (See Title 20, 53, 72.)
45. Miscellaneous.
46. Musical instruments. (See Title 28.)
47. Needles and pins. (See Title 22.)
48. Oils and lubricants. (See Title 51.)
49. Optics and measuring instruments. (See Title 73.)
50. Packing. (Machinery.)
51. Paints and painters' supplies. (See Title 48.)
52. Paper and envelopes. (See Title 65.)
53. Poisons for animals. (See Title 20, 44.)
54. Publications.
55. Receptacles. (See Title 29, 32.)
56. Rope, cord, and twine. (See Title 59.)
57. Rubber goods. (See Title 5, 69.)
58. Sewing-machines and attachments. (See Title 41, 73.)
59. Sewing silk, cotton, and thread. (See Title 56.)
60. Shirts, collars, and cuffs. (See Title 75.)
61. Soap. (See Title 38, 72.)
62. Spices, mustard, and salt. (See Title 26.)
63. Spirituous liquors. (See Title 42, 77.)
64. Starch, corn-starch, and products. (See Title 26, 38.)
65. Stationery miscellany. (See Title 33, 52.)
66. Stoves and heaters.
67. Sugar, sirup, and molasses.
68. Surgical instruments and appliances. (See Title 17.)
69. Tailoring and clothing. (See Title 21, 57.)
70. Time-keeping instruments. (See Title 35.)
71. Tobacco and snuff. (See Title 11.)
72. Toilet articles and preparations. (See Title 20, 61.)
73. Tools and devices.
74. Umbrellas, parasols, and canes.
75. Underwear and furnishing. (See Title 15, 60.)
76. Vehicles.
77. Wines. (See Title 3, 42, 63.)

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